

Application No. 10/678,764

### REMARKS

The Examiner's Office Action has been studied carefully. Claims 1-20 stand rejected under 35 U.S.C. § 112, first paragraph. Claims 1-20 stand rejected under 35 U.S.C. § 112, second paragraph. Claims 1-8 and 10-20 stand rejected under 35 U.S.C. § 102(b). Claim 9 stands rejected under 35 U.S.C. § 103(a).

Claims 21-27 remain in this application. Claims 1-20 have been canceled. Claims 21-27 have been added.

The specification has been amended at page 11, lines 1-2 to correct a typographical error in the description of the invention.

### Argument

#### The § 112, First Paragraph Rejection

Claims 1-20 stand rejected under 35 U.S.C. § 112, first paragraph, as to comply with the enablement requirement. The Examiner indicated that the claims are not clear as to whether the claimed invention is planar or solid.

Claims 1-20 are cancelled and new Claims 21-27 make clear that the building block is three-dimensional.

#### The § 112, Second Paragraph Rejection

Claims 1 and 9 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 9 is rejected because there is no antecedent basis for "said triangular member." Claim 9 is cancelled.

Claim 1 is rejected because the arrangement of magnets relative to the triangular members is not clear. Claim 1 is cancelled.

#### The § 102(b) Rejection

Claims 1-8 and 10-20 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Ehrlich '004. The Examiner has indicated that Ehrlich discloses all of the elements of Claim 1 including triangular modular members forming hedrons and a magnet in each member such that adjacent members have opposite polarities.

Claims 1-8 and 10-20 are cancelled. New Claims 21-27 are not anticipated by Ehrlich. Ehrlich discloses the use of multiple magnets in each face. On the other hand, the block of Claim 21 has a single magnetic region in each face. Ehrlich does not disclose the use of colors corresponding to magnetic polarity, whereas Claim 21 includes a limitation that each face have a color that corresponds to the magnetic polarity.

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Claims 1-8 and 10-20 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Zeischegg '360. The Examiner has indicated that Zeischegg discloses all of the elements of Claim 1 including triangular modular members forming hedrons and a magnet in each member such that adjacent members have opposite polarities.

Claims 1-8 and 10-20 are cancelled. New Claims 21-27 are not anticipated by Zeischegg because Zeischegg does not disclose the use of colors corresponding to magnetic polarity. On the other hand, Claim 21 includes a limitation that each face have a color that corresponds to the magnetic polarity of the face.

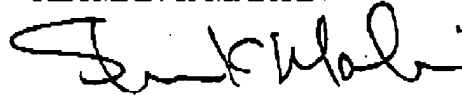
The § 103(a) Rejection

Claim 9 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Zeischegg '360. More specifically, the Examiner stated that it would be obvious to a person of ordinary skill in the art at the time the invention was made to make the block of Zeischegg with particular dimensions. Claim 9 is cancelled and there are no new corresponding claims.

CONCLUSION

In view of the distinctions in Claims 21-27 over the cited references, namely that the cited references do not disclose the use of colors that correspond to magnetic polarity, allowance of these claims is respectfully solicited.

Respectfully submitted,  
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